IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

WEDNESDAY, THE 5TH DECEMBER 2007 / 14TH AGRAHAYANA 1929

WA.No. 1714 of 2007()

AGAINST THE JUDGEMENT/ORDER IN WPC.10193/2006 Dated 28/05/2007
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APPELLANT: 1ST PETITIONER

SHAJI.K.P.,
PADMALAYAM, PUNNAPPALA,
MALAPPURAM DISTRICT

BY ADV. SMT.P.V.ASHA

RESPONDENTS: RESPONDENTS
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1. STATE OF KERALA, REPRESENTED BY
SECRETARY TO GOVERNMENT, GENERAL EDUCATION DEPT.
GOVT. SECRETARIAT,
THIRUVANANTHAPURAM

2. DIRECTOR OF HIGHER SECONDARY EDUCATION
THIRUVANANTHAPURAM

3. THE KERALA PUBLIC SERVCE COMMISSION
REPRESENTED BY ITS SECRETARY
PATTOM, THIRUVANANTHAPURAM-4

4. SHAKKEELA.A.,
D/O.ABDUL MAJEED, AGED 32 YEARS,
RESIDING AT BHAITUL AMEEN,
KARIPPODE POST, PALAGHAT.

BY ADV. SRI.ALEXANDER THOMAS,SC,KPSC
GOVERNMENT PLEADER SRI.K.SANDESH RAJA

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 05/12/2007 ALONG WITH WA NO. 2194 OF 2007 & WA NO. 2196 OF 2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.S.RADHAKRISHNAN & T.R.RAMACHANDRAN NAIR, JJ.

W.A.NOs.1714, 2194, 2196 OF 2007

Dated this the 5th day of December, 2007

JUDGMENT

Radhakrishnan, J.

Writ Appeal Nos. 1714/07 & 2196/07 are preferred by one Shaji and W.A.No.2194 is preferred by one Ummarkoya and Shaji. Admittedly they were included in the ranked list published by the P.S.C. which came into force on 06/11/2004, for the appointment as HSST(Sociology). The ranked list expired on 30/12/2006. During the currency of the ranked list, learned Single Judge by an interim order dated 21/06/2006 directed the Director of Higher Secondary Education to report 12 vacancies of HSST (Sociology) to the PSC. Over and above 2 NJD vacancies also available. Based on the direction of the learned Single Judge on 14/08/2006, PSC advised 12 candidates. Learned counsel for the appellant submits that inspite of the fact that advices were already effected, no appointment orders were effected. By the time, new ranked list came into force on 30/12/2006. The persons included in the new ranked list have got impleaded in this proceedings and claimed those vacancies which were reported.

2. A detailed counter affidavit has been filed by the state in W.A.No.1714/07. It is stated in para 5 of the counter affidavit that the principals appointed from among Higher Secondary School Teachers or qualified Headmasters are expected to fulfil the work load in the particular subject in the school in which they are appointed in addition to the exclusive duties of principals. In other words, it is stated that principals are not merely Principals, who discharge the exclusive duties of Principals but have to teach a specific subject as well. Further it is stated that the Director of Public Instructions has forwarded a list which consists of 3 qualified Headmasters qualified to teach Sociology and they ought to be accommodated in 3 schools having the post of Higher Secondary School Teacher (Sociology) as they have to teach that subject and hence nobody from the PSC list can claim appointment to the posts of HSST.

3. We are of the view that the reasons stated in the counter affidavit filed by the second respondent are not convincing. As per the provisions of Special Rules, the Principals of Government Higher Secondary Schools are appointed by promotion from Higher Secondary School Teacher and by transfer

from qualified Headmasters of High Schools in Kerala General Education Service. Special Rules also provide that post shall be filled up in the ratio of 2:1 and if qualified teachers are not available to a vacancy by any one of the methods specified above, such vacancy shall be filled up by other methods. In our view the mere fact that Principal should also take classes for HSST (Sociology) is not a ground to deny the appointment to those persons who were included in the ranked list. Petitioners are agitating the matter for quite some time. In our view the petitioners are right in contending that the petitioners' name should have been considered for appointment to the post of HSST since they were included in the PSC list. However we make it clear that the candidates be appointed on those two vacancies already advised strictly on the basis of their rank in the previous list and that too in accordance with the Rules of rotation and reservation. Further, there will be a direction to the appointing authority to issue appointment orders forthwith to fill up those two vacancies from the previous ranked list. Learned Single Judge has noticed that on the strength of the counter affidavit by the State, there are six vacancies available to the PSC

hands from the old ranked list and those six vacancies will have to be filled up on the basis of the communal reservation and rotation from the old list. We make it clear that the present direction is over and above the six vacancies already noticed by the learned Single Judge. So far as the persons who have been included in the new ranked list, it is always open to them to approach the Director or the Government, for assessing the number of vacancies available and report the same to the PSC so that the balance vacancies could be filled up from the new list. Respondents are directed to carry out the direction within a period of one month from the date of receipt of a copy of this judgment.

K.S.RADHAKRISHNAN
JUDGE

T.R.RAMACHANDRAN NAIR
JUDGE

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